

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

KERR MACHINE CO.,

Plaintiff,

v.

VULCAN INDUSTRIAL HOLDINGS, LLC,
VULCAN ENERGY SERVICES, LLC, and
CIZION, LLC d/b/a VULCAN
INDUSTRIAL MANUFACTURING,

Defendant.

CIVIL ACTION NO. 6:20-CV-200-ADA

JURY TRIAL DEMANDED

**DECLARATION OF BARRY J. HERMAN IN SUPPORT OF
DEFENDANTS' RESPONSIVE CLAIM CONSTRUCTION BRIEF**

I, Barry J. Herman, hereby declare as follows:

1. I am an attorney with the law firm Womble Bond Dickinson (US) LLP, counsel for Defendants Vulcan Industrial Holdings, LLC, Vulcan Energy Services, LLC, and Cizion, LLC d/b/a Vulcan Industrial Manufacturing (collectively, "Vulcan") in the above-entitled action. I submit this Declaration in support of Vulcan's Responsive Claim Construction Brief.

2. I make this declaration on the basis of personal knowledge, and if called to testify as witness, I would and could testify competently hereto.

3. Attached hereto as Exhibit 1 is a true and correct copy of *Cizion, LLC d/b/a Vulcan Industrial Manufacturing v. Kerr Machine Co.*, PGR2020-00065, Paper 7 (Patent Owner's Preliminary Response) (PTAB Sept. 11, 2020).

4. Attached hereto as Exhibit 2 is a chart showing relatedness between U.S. Patent No. 10,591,070, U.S. Patent Application No. 16/876,414, and U.S. Patent Application No.

16/897,659, along with true and correct copies of PTO filing receipts for each of the applications establishing relatedness.

5. Attached hereto as Exhibit 3 is a true and correct copy of the October 21, 2020 Office Action regarding U.S. Patent Application No. 16/876,414.

6. Attached hereto as Exhibit 4 is a true and correct copy of the Merriam-Webster definition of Annular. *Annular*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/annular> (last visited Oct. 29, 2020).

7. Attached hereto as Exhibit 5 is a true and correct copy of the Merriam-Webster definition of Bounded. *Bounded*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/bounded> (last visited Oct. 29, 2020).

8. Attached hereto as Exhibit 6 is a true and correct copy of the Merriam-Webster definition of Bound. *Bound*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/bound> (last visited Oct. 29, 2020).

I declare under penalty of perjury under the laws of the United States that the forgoing is true and correct.

Dated: October 29, 2020

/s/ Barry J. Herman
Barry J. Herman